

358.3 Definitions

(d)(i) Energy Affiliate means an affiliate of a transmission provider that (1) engages in or is involved in transmission transactions in U.S. energy or transmission markets; or (2) manages or controls transmission capacity of a transmission provider in U.S. energy or transmission markets; or (3) buys, sells, ~~or trades~~ natural gas or electric energy in U.S. energy or transmission markets; or (4) engages in financial transactions relating to the sale or transmission of natural gas or electric energy in U.S. energy or transmission markets.

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(ii) The definition of energy affiliate excludes (1) other affiliated regulated transmission providers; and (2) holding or service companies that do not engage in or are involved in transmission transactions in U.S. energy markets.

(e) Energy Function Employee means an employee of a Transmission provider or its Energy Affiliate that directs, organizes or executes Energy Functions. Energy Function Employee does not mean a support employee that does not direct, organize or execute Energy Functions or a senior manager, officer or director who does not direct, organize or execute Energy Functions; provided that such support employees, senior managers, officers and directors may not act as conduits for improper communications between transmission operations employees and Energy Function Employees.

(f) Energy Functions means (1) transmission transactions as a transmission customer or reseller; (2) purchase for resale, sale, or trade of natural gas or electric energy; (3) financial transactions relating to the sale or transmission of natural gas or electric energy.

358.4(a) Separation of functions.

(1) Except in emergency circumstances affecting system reliability, the transmission function employees of the transmission provider must function independently, from Energy Function Employees.

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(3) The transmission provider is prohibited from permitting Energy Function Employees to: (i) conduct transmission system operations or reliability functions; and (ii) have ~~access~~ to the system control center or similar facilities used

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for transmission operations or reliability functions that differs in any way from the access available to other transmission customers.

§ 358.5 Non-discrimination requirements.

(a) Information access.

(1) The transmission provider must ensure that any ~~Energy Function Employee~~ may only have access to that information available to the transmission provider's transmission customers (i.e., the information posted on the OASIS or Internet website, as applicable), and must not have access to any information about the transmission provider's transmission system that is not available to all users of an OASIS or Internet website, as applicable.

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(2) The transmission provider must ensure that any ~~Energy Function Employee~~ is prohibited from obtaining information about the transmission provider's transmission system (including, but not limited to, information about available transmission capability, price, curtailments, ancillary services, balancing, maintenance activity, capacity expansion plans or similar information) through access to information not posted on the OASIS or Internet website or that is not otherwise also available to the general public without restriction.

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(b) Prohibited disclosure.

(1) An employee of the transmission provider may not disclose to ~~Energy Function Employees~~ any information concerning the transmission system of the transmission provider or the transmission system of another (including, but not limited to, information received from non-affiliates or information about available transmission capability, price, curtailments, ancillary services, balancing, maintenance activity, capacity expansion plans, or similar information) through non-public communications conducted off the OASIS or Internet website, through access to information not posted on the OASIS or Internet website that is not contemporaneously available to the public, or through information on the OASIS or Internet website that is not at the same time publicly available.

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(2) A transmission provider may not share any information, acquired from nonaffiliated transmission customers or potential nonaffiliated transmission customers or developed in the course of responding to requests for transmission or ancillary

service on the OASIS or Internet website, with Energy Function Employees, except to the limited extent information is required to be posted on the OASIS or Internet website in response to a request for transmission service or ancillary services.

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(3) An employee of a transmission provider and a transmission provider cannot use any affiliate or employee of an affiliate as a conduit for sharing information with an Energy Function Employee that is prohibited by sections 358.5(b)(1) and (2).

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(4) If an employee of the transmission provider discloses information in a manner contrary to the requirements of sections 358.5(b)(1) and (2), the transmission provider must immediately post such information on the OASIS or Internet website.

(5) A nonaffiliated transmission customer may voluntarily consent in writing, to allow the transmission provider to share the non-affiliate transmission customer's transmission information with an Energy Function Employee.

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